



AIRPORT MINORITY ADVISORY COUNCIL

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Docket Clerk

Attn: Docket No. OST-2000-7640 - 4

Department of Transportation

400 7th Street, SW – Room PL 401

Washington, D.C. 20590

RE: Comments of the Airport Minority Advisory Council on the Interim Final Rule: Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs; Threshold Requirements and Other Technical Revisions

On behalf of its 567 members, the Airport Minority Advisory Council (AMAC) appreciates the opportunity to comment on the Department's interim final rule changing the threshold requirements for Federal Transit Administration (FTA) recipients and Federal Aviation Administration (FAA) recipients to establish DBE programs and submit overall goals. AMAC is a national trade association, founded in 1988, whose membership consists of DBE and majority-owned businesses that provide goods and services to the airport industry; that operate airport concessions; that operate both large and small airports across the country; and who are DBE program administrators and consultants.

We support and commend the Department on its efforts to revise the DBE Program regulations to decrease the administrative burden on small airport and transit authorities, and to provide clarity on certain regulatory provisions and program elements relative to bidders' lists, monitoring and counting DBE participation, and goal setting. AMAC's review and analysis of the interim rule, however, has raised the following concerns.

1. Substantive Changes - DBE Programs

AMAC agrees that both FTA and FAA recipients who reasonably anticipate awarding \$250,000 or less in prime DOT-assisted contracts should not be required to submit a DBE plan. The aggregate dollar amount affected by this change may currently represent a small portion of overall Airport Improvement Program grant dollars and a small number of airports that utilize such grants. It is imperative, however, that DOT continuously monitor both the numbers of airports affected by this change and the aggregate amount of contracts of \$250,000 or less that are awarded to ensure that the DBE Program is not adversely affected over time and that the aggregate dollar amounts do not increase significantly over time.

Moreover, AMAC is concerned that as more and more airport capital development projects are funded with local sources of revenue, namely Passenger Facility Charges (PFCs), and non-

federal funding sources, less and less federal grant monies will be used for these projects. Since PFCs and non-federal funding sources contain no DBE requirements, opportunities for DBE participation may be diminished over time. We strongly urge the Department to monitor the amounts of non-federal funding used for airport capital projects to ensure that the DBE program is not affected adversely, and to monitor the participation of DBE firms that participate or attempt to participate in PFC-eligible projects. It is of paramount importance that small businesses, particularly DBEs, are able to continue to participate in the economic opportunities generated from airport improvement and expansion projects nationwide, whether or not such projects are federally-funded.

Section 26.37 – What are a recipient’s responsibilities for monitoring performance of other program participants?

The interim final rule requires recipients to include a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award is actually performed by DBEs, and that this mechanism must provide for a running tally of actual payments made to DBE firms, including means of comparing these attainments to commitments.

AMAC supports this much-needed improvement in ensuring DBE participation. Many airports, however, do not have any mechanisms in place to track actual participation because there has never been a requirement to do so since the DBE Program was established. The Department must provide guidance to airports on how to implement this requirement and how to report their commitments and attainments to the Department.

AMAC again thanks the Department for its initiative in developing this interim final rule.